

(c) If a handler has not received full payment from the market administrator pursuant to §1135.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association by not more than the amount of such underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer settlement fund, and in the event the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(e) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in §1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) [Reserved]

(5) The minimum rate or rates at which payment to the producer is required pursuant to the order in this part;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundred-weight, or rate per pounds of compo-

nent, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

[64 FR 48015, Sept. 1, 1999, as amended at 65 FR 32010, May 22, 2000; 65 FR 82842, Dec. 28, 2000; 68 FR 7070, Feb. 12, 2003]

§ 1135.74 [Reserved]

§ 1135.75 Plant location adjustments for producer milk and nonpool milk.

For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in §1135.51 from the Class I price at the plant's location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §§1135.73 and 1000.76.

§ 1135.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76.

§ 1135.77 Adjustment of accounts.

See § 1000.77.

§ 1135.78 Charges on overdue accounts.

See § 1000.78.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1135.85 Assessment for order administration.

See § 1000.85.

§ 1135.86 Deduction for marketing services.

See § 1000.86.

PARTS 1136–1139 [RESERVED]

PART 1140—DAIRY FORWARD PRICING PILOT PROGRAM

Subpart A—Definitions

Sec.
1140.1 Definitions.

§ 1140.1

7 CFR Ch. X (1–1–04 Edition)

Subpart B—Rules Governing Forward Contracts

1140.2 Rules governing forward contracts.

AUTHORITY: 7 U.S.C. 601 *et seq.*

SOURCE: 65 FR 44413, July 18, 2000, unless otherwise noted.

Subpart A—Definitions

§ 1140.1 Definitions.

(a) *Pilot program* means the dairy forward pricing pilot program provided by an amendment to the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 *et seq.*) signed into law on November 29, 1999 (Section 3 of H.R. 3428 of the 106th Congress, as enacted by section 1001(a)(8) of Public Law 106–113 (113 Stat. 1536)).

(b) *Eligible milk* means the quantity of milk equal to the contracting handler's Class II, III, and IV utilization of producer milk, in product pounds, during the month, combining all plants of a single handler regulated under the same Federal order.

(c) *Forward contract* means an agreement covering the terms and conditions for the sale of milk from a producer defined in §§1001.12, 1005.12, 1006.12, 1007.12, 1030.12, 1032.12, 1033.12, 1124.12, 1126.12, 1131.12, and 1135.12, or a cooperative association defined in §1000.18, and a handler defined in §1000.9 or 1135.9.

(d) *Contract milk* means the producer milk covered by a forward contract.

(e) *Disclosure statement* means the following statement which must be signed by each producer entering into a forward contract with a handler before the market administrator will recognize the terms and conditions provided in such contract.

DISCLOSURE STATEMENT

I am voluntarily entering into a forward contract with _____ (handler's name). I have been given a copy of the contract and I have received the USDA's Pilot Program Fact Sheet to which this disclosure statement was attached. By signing this form, I understand that I am forfeiting my right to receive the order's minimum prices for that portion of my milk that is under forward contract for the duration of the contract. I also understand that my milk will be priced in accordance with the terms and conditions of the contract.

Printed Name: _____
Signature: _____
Date: _____
Address: _____
Producer No: _____

(f) *Other definitions.* The definition of any term in parts 1000–1135 of this chapter apply to, and are hereby made a part of, this part.

Subpart B—Rules Governing Forward Contracts

§ 1140.2 Rules governing forward contracts.

(a) Any handler defined in §§1000.9 and 1135.9 may enter into forward contracts with producers or cooperative associations for the handler's eligible milk. Milk under forward contract in compliance with these rules will be exempt from the minimum payment provisions that would apply to such milk pursuant to §§1001.73, 1005.73, 1006.73, 1007.73, 1030.73, 1032.73, 1033.73, 1124.73, 1126.73, 1131.73 and 1135.73 for the period of time covered by the contract.

(b) A forward contract with a producer or cooperative association participating for the first time in this pilot program may not exceed 12 months. In no event shall a forward contract executed pursuant to this part extend beyond December 31, 2004.

(c) Forward contracts must be signed and dated by the contracting handler and producer (or cooperative association) prior to the 1st day of the 1st month for which they are to be effective and must be in the possession of the market administrator by the 15th day of that month.¹ The disclosure statement provided in §1140.1(e) must be signed on the same date as the contract by each producer entering into a forward contract under the pilot program, and this signed disclosure statement must be attached to each contract submitted to the market administrator.

(d) In the event that a handler's contract milk exceeds the handler's eligible milk for any month in which the specified contract price(s) are below

¹Contracts that have been signed prior to the effective date of these rules are invalid under the pilot program.

the order's minimum prices, the handler must designate which producer milk shall not be contract milk. If the handler does not designate the suppliers of the over-contracted milk, the market administrator shall prorate the over-contracted milk to each producer and cooperative association having a forward contract with the handler.

(e) Payments for milk covered by a forward contract must be made on or before the dates applicable to payments for milk that is not under forward contract under the respective Federal order.

(f) Handlers participating in the pilot program will continue to be required to file all reports that are currently required under the respective marketing orders and will continue to be required to account to the pool for all milk they receive at their respective order's minimum class prices.

(g) Nothing in this part shall impede the contractual arrangements that exist between a cooperative association and its members.

PART 1150—DAIRY PROMOTION PROGRAM

Subpart—Dairy Promotion and Research Order

DEFINITIONS

Sec.	
1150.101	Act.
1150.102	Department.
1150.103	Secretary.
1150.104	Board.
1150.105	Person.
1150.106	United States.
1150.107	Fiscal period.
1150.108	Eligible organization.
1150.109	Qualified State or regional program.
1150.110	Producer.
1150.111	Milk.
1150.112	Dairy products.
1150.113	Fluid milk products.
1150.114	Promotion.
1150.115	Research.
1150.116	Nutrition education.
1150.117	Plans and projects.
1150.118	Marketing.
1150.119	Cooperative association.

NATIONAL DAIRY PROMOTION AND RESEARCH BOARD

1150.131	Establishment and membership.
----------	-------------------------------

1150.132	Term of office.
1150.133	Nominations.
1150.134	Nominee's agreement to serve.
1150.135	Appointment.
1150.136	Vacancies.
1150.137	Procedure.
1150.138	Compensation and reimbursement.
1150.139	Powers of the Board.
1150.140	Duties of the Board.

EXPENSES AND ASSESSMENTS

1150.151	Expenses.
1150.152	Assessments.
1150.153	Qualified State or regional dairy product promotion, research or nutrition education programs.
1150.154	Influencing governmental action.
1150.155	Adjustment of accounts.
1150.156	Charges and penalties.

PROMOTION, RESEARCH AND NUTRITION EDUCATION

1150.161	Promotion, research and nutrition education.
----------	--

REPORTS, BOOKS AND RECORDS

1150.171	Reports.
1150.172	Books and records.
1150.173	Confidential treatment.

MISCELLANEOUS

1150.181	Proceedings after termination.
1150.182	Effect of termination or amendment.
1150.183	Personal liability.
1150.184	Patents, copyrights, inventions and publications.
1150.185	Amendments.
1150.186	Separability.
1150.187	Paperwork Reduction Act assigned number.

Subpart—Procedure for Certification of Milk Producer Organizations

1150.270	General.
1150.271	Definitions.
1150.272	Responsibility for administration of regulations.
1150.273	Application for certification.
1150.274	Certification standards.
1150.275	Inspection and investigation.
1150.276	Review of certification.
1150.277	Listing of certified organizations.
1150.278	Confidential treatment.

AUTHORITY: 7 U.S.C. 4501-4513.

SOURCE: 49 FR 11816, Mar. 28, 1984, unless otherwise noted.